

REMARKS

The remainder of this Amendment is set forth under appropriate subheadings for the convenience of the Examiner.

Amendments to the Claims

Claims 1 and 10 have been amended to recite that a container for dispensing a spreadable food product comprises a housing; a platform; and a dispensing member mounted in the housing, and that the dispensing member includes (a) a threaded rod movably engaging the platform and (b) a rotary dial for turning the threaded rod, and thereby moving the platform. Support for this amendment can be found in the specification, for example, page 3, lines 11-12 and page 5, lines 4-13, as originally filed.

No new matter has been added.

Rejection of Claims 1, 4-8, 10 and 14-17 under 35 U.S.C. § 102(b)

Claims 1, 4-8, 10 and 14-17 have been rejected under 35 U.S.C. § 102(b) as being anticipated by U.S. Patent No. 4,544,083 to Schroeder (hereinafter "Schroeder").

As amended, base Claim 1 is directed to a container for dispensing a spreadable food product that includes a housing having an open top end for dispensing the spreadable food product, a bottom end and a side wall; a platform positioned within the housing for supporting the spreadable food product; a dispensing member mounted in the housing and attached to the platform; and a cover for covering the top end of the housing. As amended, base Claim 10 relates to a method for dispensing a spreadable food product. The method includes the step of providing a container for dispensing a spreadable food product. The container is formed of a housing; a platform positioned within the housing for supporting the spreadable food product; and a dispensing member mounted in the housing and attached to the platform. The dispensing member of Claims 1 and 10, as amended, includes (a) a threaded rod movably engaging the platform and (b) a rotary dial for turning the threaded rod, and thereby moving the platform.

Schroeder discloses a butter dispenser having a hollow body for receiving a stick of butter, a selectively rotatable shaft and a knurled knob affixed to the shaft for providing selective

rotation. However, the knurled knob is positioned *outside of the hollow body* as shown in FIG. 1. In contrast, the dispensing member in the container of Applicant's invention, including the threaded rod and rotary dial for turning the threaded rod, *is mounted in the housing*, as shown in FIG. 1 of the application.

There is no disclosure or suggestion in Schroeder of a container for dispensing a spreadable food product, comprising a dispensing member mounted in the housing, where the dispensing member includes a threaded rod and a rotary dial, as now claimed in base Claim 1. Also, there is no disclosure or suggestion in Schroeder of a method for dispensing a spreadable food product, comprising the step of providing a container for dispensing a spreadable food product, the container being formed of a housing; a platform; and a dispensing member mounted in the housing, where the dispensing member includes a threaded rod and a rotary dial, as now claimed in base Claim 10.

In addition, the dispenser of Schroeder is to be easily disassembled completely once the dispenser is empty, as described on Column 2, lines 44-50. Thus, one of ordinary skill in the art utilizing the teachings of Schroeder would not have been motivated to modify the container of Schroeder to mount a dispensing member, e.g., the knurled knob, in the hollow body 10 (see FIG. 1), because the location of the knob in the hollow body would cause inconvenience in disassembling the whole dispensing member.

Therefore, Applicant's invention of base Claims 1 and 10, as amended, is novel and non-obvious over Schroeder. Claims 4-8 and Claims 14-17 depend from base Claims 1 and 10, respectively. Therefore, the subject matter of Claims 4-8 and 14-17 also is novel and non-obvious over Schroeder. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejection of Claims 1, 2, 5-11, 14, 16 and 17 under 35 U.S.C. § 103(a)

Claims 1, 2, 5-11, 14, 16 and 17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 2,458,120 to Volpini (hereinafter "Volpini") in view of Schroeder.

Volpini discloses a corn buttering device in which a piston slides in and out of a body member (see FIGs. 1-3). However, Volpini does not disclose or suggest a device for dispensing

a spreadable food product, that includes a dispensing member *mounted in the housing*, where the dispensing member includes a threaded rod and a rotary dial for turning the threaded rod, as now claimed in Claim 1. Also, Volpini does not disclose or suggest a method for dispensing a spreadable food product, that includes the step of providing a container for dispensing a spreadable food product, the container being formed of a housing; a platform; and a dispensing member *mounted in the housing*, where the dispensing member includes a threaded rod and a rotary dial for turning the threaded rod, as claimed in Claim 10. In fact, Volpini does not disclose or suggest a device that includes a dispensing member having a threaded rod and a rotary dial for turning the threaded rod. In particular, the head portion of the piston in Volpini's device is not intended to be mounted in the body member, because the head portion provides a handle for the piston to slide in and out of the body member.

As discussed above, Schroeder does not remedy the deficiencies of Volpini in that Schroeder does not disclose or suggest a container that includes a dispensing member *mounted in the housing*, where the dispensing member includes a threaded rod and a rotary dial for turning the threaded rod, and in that Schroeder does not disclose or suggest a method for dispensing a spreadable food product, that includes the step of providing such a container.

Therefore, the subject matter of base Claims 1 and 10, as now amended, is not obvious in view of Volpini and Schroeder, separately or in combination. Claims 2 and 5-9 and Claims 11, 14, 16 and 17 depend from base Claims 1 and 10, respectively. Thus, the subject matter of these claims also is not obvious in view of Volpini and Schroeder, separately or in combination. Reconsideration and withdrawal of the rejection are respectfully requested.

Rejection of Claims 1, 3-17 under 35 U.S.C. § 103(a)

Claims 1, 3-17 have been rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 4,981,041 to Merkle (hereinafter "Merkle") in view of Schroeder.

Merkle disclose a measuring and dispensing device that has a scoop being open at both ends and a plunger. The plunger slides in one end of the scoop and displaces the contents of the scoop toward the other end of the scoop. However, Merkle does not disclose or suggest a device that includes a dispensing member having a threaded rod and a rotary dial for turning the threaded rod. Further, there is no disclosure or suggestion in Merkle of a container for

dispensing a spreadable food product, that includes a dispensing member *mounted in the housing*, where the dispensing member includes a threaded rod and a rotary dial for turning the threaded rod, as now claimed in Claim 1. Also, there is no disclosure or suggestion in Merkle of a method for dispensing a spreadable food product, that includes the step of providing such a container, as now claimed in Claim 10. As discussed above, Schroder does not remedy the deficiencies of Merkle in that Schroder does not disclose or suggest such a container, and in that Schroder does not disclose or suggest a method that includes the step of providing such a container.


Therefore, the subject matter of base Claims 1 and 10, as now amended, is not obvious in view of Merkle and Schroeder, separately or in combination. Claims 3-9 and 11-17 depend from base Claims 1 and 10, respectively. Thus, the subject matter of these claims also is not obvious in view of Merkle and Schroeder, separately or in combination. Reconsideration and withdrawal of the rejection are respectfully requested.

CONCLUSION

In view of the above amendments and remarks, it is believed that all claims are in condition for allowance, and it is respectfully requested that the application be passed to issue. If the Examiner feels that a telephone conference would expedite prosecution of this case, the Examiner is invited to call the undersigned.

Respectfully submitted,

HAMILTON, BROOK, SMITH & REYNOLDS, P.C.

By 

Mary Lou Wakimura

Registration No. 31,804

Telephone: (978) 341-0036

Facsimile: (978) 341-0136

Concord, MA 01742-9133

Dated: 9/9/04